

1  
2  
3  
4  
5  
6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
8

9 RAFAEL CASTILLO, JR.,

10 Petitioner,

11 vs.

12 RENEE BAKER, et al.,

13 Respondents.  
14

Case No. 3:13-cv-00360-HDM-WGC

**ORDER**

15 The court found that the petition for a writ of habeas corpus (#4) was mixed, containing both  
16 grounds exhausted and unexhausted in state court. Order (#14). The court gave petitioner the  
17 opportunity to declare what he wished to do with the unexhausted grounds. Id. Petitioner has not  
18 responded within the allotted time. The court will dismiss this action. The court does not consider  
19 whether a subsequently filed petition will be timely under 28 U.S.C. § 2244(d).

20 Reasonable jurists would not disagree with this conclusion, and the court will not issue a  
21 certificate of appealability.

22 IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for  
23 plaintiff's failure to exhaust all his state-court remedies. The clerk of the court shall enter judgment  
24 accordingly.

25 ///

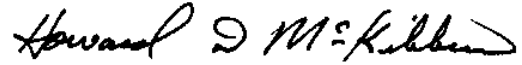
26 ///

27 ///

28 ///

1 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

2 DATED: January 21, 2014.

3 

4  
5 

---

HOWARD D. MCKIBBEN  
United States District Judge